

AMENDMENT UNDER 37 C.F.R. § 1.111
Serial No. 09/674,643
Docket No: Q61622

REMARKS

Claims 1-3 and 15-36 are all of the pending claims. Claims 1 and 15 are independent claims.

Interview

Applicant thanks the Examiners for the personal Interview with Applicant's representative on July 2, 2003. During this interview, the rejection of claim 1 as allegedly anticipated by Dombrowski (US 4,790,828) was discussed. The points raised by the Examiners during this interview are discussed below in the section regarding "Rejections under 35 U.S.C. § 102 and 103". In addition, the Examiner has confirmed that claim 15-22 are allowed.

Rejections under 35 U.S.C. § 102 and 103

Claims 1, 3, 26-29, 30-32, and 36 are rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by Dombrowski. Claims 2 and 23-25 are rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Dombrowski in view of Cameron (US 5,197,954). Claims 33-35 are rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Dombrowski in view of Schlesinger (US 4,283,493).

Independent claim 1 has been amended to recite that the claimed device has a first link 1) that is able to take at least three positions (an equilibrium starting position, an equilibrium in use position, and a locked position) when the needle is positioned vertically upright with the sharp end of the needle above the base end of the needle, and 2) that takes up one of the equilibrium in use position and the equilibrium starting position, wherein the link makes an acute angle (α) with respect to the axis of the through bore, when no force is applied to the link. This amendment is

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fully supported by the original specification at least by the non-limiting embodiment shown at Figs. 1-5 and the discussion thereof.

Applicant respectfully requests the Examiner to withdraw the rejection of claim 1 at least in view of this amendment and the discussion below.

During the interview, it was the Examiner's position is that if Dombrowski's needle assembly was flipped upside down, then the needle assembly would have a different equilibrium position than when the needle assembly was right side up. As such, it was the Examiner's position that Dombrowski teaches two equilibrium positions. However, in contrast to the claimed needle, the needle discussed in Dombrowski has only a single equilibrium position (the position shown in Fig. 5) when the needle is positioned vertically upright.

In addition, during the interview, it was the Examiner's position that even when in an upright position and no force is applied, Dombrowski's needle inherently, or necessarily, takes two equilibrium positions. However, this position is based on a misinterpretation of Dombrowski's disclosure.

Dombrowski teaches that when the arms 34 of the needle assembly are in the extended position (locked position), the arms 34 (tether) "are in a stressed condition biasing the cap portion 28 towards the hub 12" (emphasis added). Dombrowski at 3:58-62 & 4:61-65. This downward bias is essential to the invention discussed in Dombrowski because it forces the flanges 40', 42' (within the cap 28') against the distal tip 26 of the needle 22 so that the tip 26 of the needle 22 is locked in place within the cap portion. Dombrowski at Fig. 7 & 5:26-44.

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As such, in order for the invention described in Dombrowki to function properly, the cap portion of the needle assembly must be biased downward to the position shown in Fig. 5.

Therefore, the top portions of the arms 34 of Dombrowski's needle assembly are not capable of taking both an equilibrium in-use position and an equilibrium starting position because the cap portion is instead biased downward toward the neutral position of the assembly.

Therefore, Applicant requests that the Examiner withdraw the rejection of claim 1 at least for the reasons discussed above. In addition, Applicant requests that the Examiner withdraw the rejections of claims 3, 26-32, and 36 at least because of their dependency from claim 1.

Furthermore, Applicant requests the Examiner to withdraw the rejections of claims 2 and 23-25 at least because of their dependency from claim 1 and because Cameron, which the Examiner has applied in an attempt to show a base with two parts attached by a weak point, does not cure the deficiencies in Dombrowski discussed above. Applicant also requests the Examiner to withdraw the rejections of claims 33-35 at least because of their dependency from claim 1 and because Cameron, which the Examiner has applied in an attempt to show a sachet made of non-stretch material that is capable of tearing under a given traction, does not cure the deficiencies in Dombrowski discussed above.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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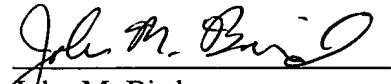
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